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In the
Supreme Court of the United States

Paul Messer & Dorothy Calabrese, M.D.
Petitioners,

v.

U.S. Department of Health and Human Services
Respondent.

Petition for a Writ of Certiorari
to the U.S. Court of Appeals
for the Ninth Circuit

SUPPLEMENTAL APPENDICES BB-CC

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APPENDIX BB

FILED SEP 11 2008

MOLLY C. DWYER, CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PAUL MESSER; et al.. Plaintiffs - Appellants,

v.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; et al,

Defendants - Appellees.

No. 08-56278

D.C.No. 8:07-cv-01444-CJC

Central District of California, Santa Ana

ORDER Before: PREGERSON, McKEOWN and N.R. SMITH, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable. See Fed. R. Civ. P. 54(b); Chacon v. Babcock, 640 F.2d 221, 222 (9th Cir. 1981) (order is not appealable unless it disposes of all claims as to all parties or judgment is entered in compliance with rule); see also 28 U.S.C. § 1291; Silberkleit v. Kantrowitz, 713 F.2d 433, 434 (9th Cir. 1983) (grant or denial of a stay of proceedings is not generally a final decision appealable under § 1291). Consequently, this appeal is dismissed for lack of jurisdiction.

APPENDIX C C

FILED SEP 12 2008
MOLLY C. DWYER, CLERK U.S. COURT OF
APPEALS
UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

PAUL MESSER; et al.. Plaintiffs - Appellants,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES; et al.,
Defendants - Appellees.

No. 08-56358

D.C. No. 8:08-cv-00633-CJC Central District of
California, Santa Ana

ORDER

**Before: PREGERSON, McKEOWN and N.R.
SMITH, Circuit Judges.**

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable. See 28 U.S.C. § 1291; Silberkleit v. Kantrowitz, 713 F.2d 433, 434 (9th Cir. 1983) (grant or denial of a stay of proceedings is not generally a final decision appealable under § 1291). Consequently, this appeal is dismissed for lack of jurisdiction.